

# **RJC Member Briefing**

## **EU Conflict Minerals Initiative**

**Friday May 17, 2013**

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# Agenda

1. Welcome
2. Overview of EU Conflict Minerals initiative
  - a. Rationale
  - b. Scope
3. EU Consultation survey
  - a. Aims
  - b. Industry concerns
  - c. Key messages
4. Questions and discussion

## Proposed EU Initiative on Conflict Minerals

- The European Commission has launched a public consultation on “conflict minerals”.
  - Seeking feedback on a potential EU initiative for responsible sourcing of minerals from conflict-affected and high-risk areas – for example, war zones, post-war zones and areas vulnerable to political instability or civil unrest.
  - Likely to include gold – impact on jewellery supply chains.
- Results of consultation will help decide whether – and how – to complement and/or continue ongoing due diligence initiatives
  - UN Guiding Principles on Business and Human Rights
  - OECD Due Diligence Guidance
  - US Dodd Frank Act
  - International Council for the Great Lakes Region (ICGLR) regional certification program

## Proposed EU initiative – stated rationale

- Need for the EU to promote responsible sourcing of minerals
- Security of supply to the EU of selected minerals
- Provide critical mass to motivate other major economies to engage in similar initiatives eg China, Brazil, Indonesia, Malaysia
- EU support and incentives for market access to supply chains that address due diligence concerns
- **Convened:** under Directorate General – Trade

## Proposed EU initiative - consultation

- Considering soft law vs legislative instruments
  - *Latter seems likely*
- How to complement private sector-led initiatives
  - *'Genuine' voluntary initiatives vs those driven by regulation*
- How to ensure responsible sourcing without disengagement from conflict regions
  - *Major issue from Dodd Frank legislation*
- 'Honest consultation' - don't have specific proposal prepared ...
  - *However EU Timber Regulation referenced as model*

**Timeframe for consultation:** 27 March to 26 June 2013

## Proposed EU initiative – Scope

- **Minerals:**
  - Appears to be gold, tin, tungsten and tantalum
  - Invites suggestions for other minerals
- **Geographic scope:**
  - Global / regional / country-specific
- **Potential Models**
  - Providing positive incentives to businesses to foster clean trade from conflict-affected and high-risk areas
  - EU Timber Regulation:
    - Requiring that the entity first placing a selected mineral (processed or not) on the EU market must provide evidence of due diligence, thereby giving reasonable assurance that its supply chain is conflict-free
    - Preventing placing on the market specific minerals/end products extracted and exported against the laws of producing countries

## EU Timber Regulation

**Based on ‘due diligence’:** operators undertake a risk management exercise so as to minimise the risk of placing illegally harvested timber, or timber products containing illegally harvested timber, on the EU market.

Three key elements of the ‘due diligence system’:

- **Information:** The operator must have access to information describing the timber and timber products, country of harvest, species, quantity, details of the supplier and information on compliance with national legislation.
- **Risk assessment:** The operator should assess the risk of illegal timber in his supply chain, based on the information identified above and taking into account criteria set out in the regulation.
- **Risk mitigation:** When the assessment shows that there is a risk of illegal timber in the supply chain that risk can be mitigated by requiring additional information and verification from the supplier.

## EU Timber Regulation

- EU Due diligence model generally similar to OECD Due Diligence Guidance. Differences:
  - Requires 'operators' to have access to country of origin information in all cases vs assessing for 'red flag' risks
  - Due diligence responsibility on 'operators' that place product on EU market, not on 'choke points' (eg gold refiners)
- Recycled timber products (eg recycled paper) and printed paper (eg books, magazines, newspapers etc) are not included. No particular due diligence requirements seem to be specified.
- Provides formal role for 'monitoring organisations', in due diligence approach. Certification system must include
  - Compliance with Applicable Law
  - Verification checks at least every 12 months
  - Chain of custody records
- 'Monitoring organisations' are formally recognised by the EU and checks carried out by competent authorities at least every 2 years. Recognition can be withdrawn.



## Consultation questionnaire - Aims

- Establish private sector interest and action in responsible sourcing
- Evaluate effectiveness of existing frameworks
- Lessons learnt and potential improvements of existing supply chain due diligence schemes

### Questions:

- Information about respondents – type of business, size, area of operation
- Existing frameworks and efforts on responsible sourcing
- Need and scope for a possible EU initiative
- Security of supply, actions of other economies
- Potential design of the initiative
- Impact assessment – economic/competitiveness, environmental, social impacts

## Consultation – industry concerns at OECD meeting

*Q – What is added value of possible EU initiative on responsible sourcing?*

- Investing EU resources on the ground in conflict regions.
- Counteracting unintended damage from Dodd Frank Act.
- Providing state-to-state leverage to bring smelters and refiners into existing due diligence programs, thereby support downstream due diligence efforts.
- Engage other regions eg China in responsible sourcing.
- Support the OECD Due Diligence Guidance without compromising its flexibility - process not outcome-based.
  - Noted that OECD and EU members are largely overlapping, so unnecessary duplication should be avoided.
- Incentivise responsible sourcing, particularly approaches which encourage engagement in conflict regions.

## Consultation – industry concerns at OECD meeting

*Q – What would be your main advice or lessons learnt for the EU to take into account?*

- The Dodd Frank Act has done damage in the DRC region (de facto embargo) and this needs to be corrected, not compounded.
  - Focus on helping local communities and states through formalisation, community development, security initiatives.
  - Take care not to ‘scare off’ industry from conflict regions.
- Supply chains tend to include large numbers of SMEs.
  - Even large companies may not have market power to demand assurance right through the supply chain.
  - SEC rules provide 2 years for large companies, 4 years for small companies – this is unworkable for large companies with SME’s in their supply chains.
- Start from conflict regions and work forward.
  - Difficult to drive backwards from end products.
- Make sure not burdensome for business.

## Consultation – key messages

- RJC encourages Members to fill out the survey
- RJC Members should also consider liaising with national governments on the proposed initiative
- RJC working with other associations to develop some key messages that can be used by their Members to assist their submission.

### RJC suggested messages

- RJC standards (Code of Practices and Chain-of-Custody) encourage responsible sourcing in the jewellery supply chain
- Any EU initiative should build on existing frameworks, particularly the OECD Due Diligence Guidance and harmonised industry programs eg RJC, LBMA, EICC (now CFSI) and others
- Care should be taken to avoid unintended consequences and business burdens as resulted from Section 1502 of the Dodd Frank Act

## Questions and discussion?

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- RJC will make a submission to the EU consultation, working with other precious metals associations.
- Individual RJC Members also encouraged to submit to the consultation, or let RJC know their views.

### **Consultation website:**

[http://trade.ec.europa.eu/consultations/index.cfm?consul\\_id=174](http://trade.ec.europa.eu/consultations/index.cfm?consul_id=174)

Closes June 26, 3013.

### **June 3 conference hosted by MEP Judith Sargentini:**

[https://docs.google.com/forms/d/1hQua51PPVuV4Ka7NUUX-JV\\_fbc6a-icU-x9ELdAeWlw/viewform](https://docs.google.com/forms/d/1hQua51PPVuV4Ka7NUUX-JV_fbc6a-icU-x9ELdAeWlw/viewform)